

COPY

STATE OF WISCONSIN
Department of Commerce

In the Matter of the PECFA Appeal of:

David Cramer,
United Cooperative, Inc.
N7160 Raceway Road
Beaver Dam, Wisconsin 53916

PECFA Claim # 53916-9311-60
Hearing #02-279

Final Decision

Preliminary Recitals

Pursuant to a Petition for Hearing filed on or about September 10, 2002, under § 101.02 (6) (e) Wis. Stats., and § Comm 47.53 Wis. Adm. Code, to review a decision of the Wisconsin Department of Commerce (Department) dated August 12, 2002, a hearing was commenced on March 6, 2003 at Madison, Wisconsin. A Proposed Hearing Officer Decision was issued on February 1, 2004 and the parties were provided a period of twenty (20) days to file objections.

The Issue for determination is:

Whether the Department's Decision dated August 12, 2002, denying the Appellant's PECFA reimbursement claim in the amount of \$3,378.00 for costs associated with the Appellant's use of a mobile gas chromatograph during the site investigation phase was correct.

There appeared in this matter the following persons:

PARTIES IN INTEREST:

David Cramer
United Cooperative
N7160 Raceway Road
Beaver Dam, Wisconsin 53916

By: Mark Maten
Envirogen
4100 Quakerbridge Road
Lawrenceville, New Jersey 08648

PECFA Claim #53916-9311-60

Wisconsin Department of Commerce
PECFA Bureau
201 W. Washington Avenue
P.O. Box 7838
Madison, Wisconsin 53707-7838

✓ By: Kristiane Randal, Esq.
Assistant Legal Counsel
Wisconsin Department of Commerce
201 W. Washington Avenue, Room 322A
P.O. Box 7838
Madison, Wisconsin 53707-7838

The authority to issue a Final Decision in this matter has been delegated to the undersigned by the Secretary of the Department pursuant to § 560.02 (3) Wis. Stats.

The matter now being ready for Final Decision I, David K. Storey, Deputy Secretary of the Department, hereby issue the following:

FINDINGS OF FACT

The Findings of Fact in the Proposed Hearing Officer Decision cited above are hereby adopted for purposes of this Final Decision.

CONCLUSIONS OF LAW

The Conclusions of Law in the Proposed Hearing Officer Decision cited above are hereby adopted for purposes of this Final Decision.

DISCUSSION

The Discussion in the Proposed Hearing Officer Decision cited above is hereby adopted for purposes of this Final Decision.

FINAL DECISION

The Proposed Hearing Officer Decision cited above is hereby adopted as the Final Decision of the Department.

NOTICE TO PARTIES

Request for Rehearing

This is a final agency decision under § 227.48 Wis. Stats. If you believe this decision is based on a mistake in the facts or law, you may request a new hearing. You may also ask for a new hearing if you have found new evidence which would change the decision and which you could not have discovered sooner through due diligence. To ask for a new hearing, send a written request to Office of Legal Counsel, Wisconsin Department of Commerce, 201 West Washington Avenue, P.O. Box 7970, Madison, Wisconsin 53707-7970.

Send a copy of your request for a new hearing to all the other parties named in this Final Decision as "PARTIES IN INTEREST".

Your request must explain what mistake you believe the hearing examiner made and why it is important of you must describe your new evidence and tell why you did not have it available at the hearing in this matter. If you do not explain how your request for a new hearing is based on either a mistake of fact or law or the discovery of new evidence which could not have been discovered through due diligence on your part, your request for a new hearing will be denied.

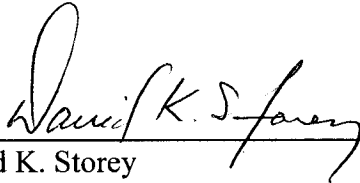
Your request for a new hearing must be received by the Department's Office of Legal Counsel no later than twenty (20) days after the mailing date of this Final Decision as indicated below. Late requests cannot be reviewed or granted. The process for asking for a new hearing is set out in § 227.49 Wis. Stats.

Petition For Judicial Review

Petitions for judicial review must be filed not more than thirty (30) days after the mailing of this Final Decision as indicated below (or thirty (30) days after the denial of a request for a rehearing, if you ask for one). The petition for judicial review must be served on the Secretary, Office of the Secretary, Wisconsin Department of Commerce, 201 West Washington Avenue, P.O. Box 7970, Madison, Wisconsin 53707-7970.

The petition for judicial review must also be served on the other "PARTIES IN INTEREST" or each party's attorney of record. The process for judicial review is described in § 227.53 Wis. Stats.

Dated: 2/25/04



David K. Storey
Deputy Secretary
Wisconsin Department of Commerce
201 West Washington Avenue
P.O. Box 7970
Madison, Wisconsin 53707-7970

Copies to:

Above identified "PARTIES IN INTEREST", or their legal counsel if represented.

Laura Pleasants
PECFA Coordinator
Division of Environmental and Regulatory Services
Wisconsin Department of Commerce
201 West Washington Avenue
P. O. Box 7970
Madison, Wisconsin 53707-7970

Date Mailed: 2.25.04

Mailed By: Wendi M. Zitske
Wendi M. Zitske
